

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RALPH OMAR WILLIAMS,

Plaintiff,

v.

WARDEN ORLANDO HARPER, DEPUTY
WARDEN ADAM SMITH, COUNTY
EXECUTIVE RICH FITZGERALD,

Defendants.

2:22-CV-00324-CCW

OPINION AND ORDER

This case has been referred to United States Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On January 24, 2023, the Magistrate Judge issued a Report, ECF No. 13, recommending that the Complaint, ECF No. 1, filed by Plaintiff Ralph Omar Williams, who is proceeding pro se, be dismissed with prejudice for failure to prosecute. Service of the Report and Recommendation (“R&R”) was made on Mr. Williams, and no objections were filed.

After a review of the pleadings and documents in the case, together with the R&R, the Court will adopt the R&R in part as the Opinion of the Court, with respect to its analysis under *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984) and the finding that a dismissal for failure to prosecute is appropriate in this case. However, because the *Poulis* analysis is predicated on a finding that the habeas petition is moot, the Court will dismiss the case without prejudice.

When a habeas petition that specifically challenges pretrial custody under 28 U.S.C. § 2241 is found to be moot after the petitioner is convicted, courts dismiss without prejudice. *See, e.g.,*

Clark v. Payne, 341 Fed. App'x 355, 356 (10th Cir. 2009); *Slater v. Caldwell*, No. 21-11627 (NLH), 2022 WL 17093063, at *1 (D.N.J. Nov. 21, 2022). This approach is consistent with broader caselaw that holds that when a dismissal is based on mootness, which is a jurisdictional issue, this dismissal should be without prejudice. See *Pletcher v. Giant Eagle Inc.*, No. 2:20-754, 2022 WL 17488019, at *9 (W.D. Pa. Dec. 7, 2022) (Fischer, J.) (collecting cases). Therefore, the Court finds that, although Mr. Williams' present habeas petition brought under 28 U.S.C. § 2241 is moot, it should be dismissed without prejudice.

After a review of the pleadings and documents in the case, together with the Report and Recommendation, it hereby is **ORDERED** that the Magistrate Judge's Report and Recommendation, ECF No. 13, is adopted in part as the Opinion of the District Court, with respect to the dismissal for failure to prosecute but not with respect to the dismissal with prejudice. Accordingly, Mr. Williams' Complaint is dismissed without prejudice and a certificate of appealability is denied.

DATED this 16th day of February, 2023.

BY THE COURT:

/s/ Christy Criswell Wiegand
CHRISTY CRISWELL WIEGAND
United States District Judge

cc: Hon. Maureen P. Kelly
United States Magistrate Judge

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